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IN THE HIGH COURT OF JUDICATURE AT BILASPUR

M.C.C. No .- 224 /2005 **Division Bench**

PETITIONERS — Chhattisgarh State Co- Operative Marketing Federation Ltd. Raipur, through the Secretary, Raipur (C.G.)

VERSUS

RESPONDENT 1. R.S. Dwivedi, S/o. Shri Triloki Nath, aged about 62 years, Ex-Deputy Manager, M.P. State marketing Federation Bhopal Posted at Divisional Manager Office, Bilapsur, R/o. Jarahabhata, Bilaspur

P.R. No. 2513/05 Shri Mandra Shukla
Presented by Shri
dated 22/9/05

2. M.P. State Cooperative Marketing Federation Ltd., Bhopal

उपायुक्त बिलासपुर तहसील सदर (C.G.)

3. Chairman M.P. State Cooperative Tribunal, Bhopal (M.P.)

4. Additional Registrar, Presiding Officer, Court of Registrar Cooperative Societies,Bhopal M.P.

REVIEW PETITION FOR REVIEW OF ORDER DATED 10-8-2005 PASSED IN W.P. NO. 1445/2001 (R.S. DWIVEDI –V- M.P. STATE COOPERATIVE MARKETING FEDERATION LTD. BHOPAL AND OTHERS)

(25)

HIGH COURT OF CHHATTISGARH AT BILASPUR

DIVISION BENCH

CORAM : HON'BLE MR. L.C. BHADOO AND
HON'BLE MR. SATISH K. AGNIHOTRI, JJ.

MISCELLANEOUS CIVIL CASE NO.224 OF 2005

Chhattisgarh State Co-operative Marketing Federation Ltd., Raipur

versus

R.S. Dwivedi and others

ORDER FOR CONSIDERATION

Sd/-
Satish K. Agnihotri
Judge

Hon'ble Mr. L.C. Bhadoo, J. :

Sd/-
L.C.BHADOO
Judge

POST FOR 2-8-2006

Sd/-
Satish K. Agnihotri
Judge

(96)

HIGH COURT OF CHHATTISGARH AT BILASPUR

DIVISION BENCH

CORAM : HON'BLE MR. L.C. BHADOO AND
HON'BLE MR. SATISH K. AGNIHOTRI, JJ.

MISCELLANEOUS CIVIL CASE NO.224 OF 2005

Petitioner	:	Chhattisgarh State Co-operative Marketing Federation Ltd., Raipur
	versus	
Respondents	:	R.S. Dwivedi and others

Present : Dr. N.K.Shukla, Senior Advocate with Mr. A.K.Yadav, counsel for the petitioner.
Mr. Yashwant Tiwari, counsel for respondent No.1.

ORDER
(Passed on 2nd-8-2006)

Per Satish K. Agnihotri, J. :

By this review application, Chhattisgarh State Cooperative Marketing Federation Ltd., Raipur seeks review of the order dated 10-8-2005 passed by this Court in Writ Petition No.1445/2001 (R.S.Dwivedi vs. M.P. State Cooperative Marketing Federation Ltd. Bhopal and others) to the extent that respondent

(27)

No.2 – M.P. State Cooperative Marketing Federation Ltd., Bhopal alone be made liable to make the payment of 50% of back wages and other allowances as per order dated 10-8-2005.

2. The review petitioner seeks review on the ground that respondent No.1 (the writ petitioner) was terminated from services on 22-6-1992 and he was reinstated in service on 10-9-1996. The claim of his back wages for the said period has to be discharged by respondent No.2 – M.P. State Cooperative Marketing Federation Ltd., Bhopal, and the review petitioner was not liable to make the payment of back wages to respondent No.1 (the writ petitioner). The issue was raised in the hearing of the writ petition and after consideration, the same was rejected by a direction to the effect that the review petitioner and respondent No.2 are liable to make the payment of 50% of back wages and other allowances within a period of two months from the date of receipt of the order. Respondent No.2 had preferred a special leave petition before the Hon'ble Supreme Court impugning the order dated 10-8-2005, sought to be reviewed, in Special Leave Petition (C.) No.22887/2005. The same has been dismissed by the Hon'ble Supreme Court on 21-11-2005.

3. It is well settled principle of law that review is not maintainable if it seeks rehearing of the case in the guise of review

application. In the present case, the review petitioner is in fact seeking rehearing of the case. Review is maintainable only on a ground mentioned in Order 47 Rule 1 of the Code of Civil Procedure, i.e., on the discovery of new and important matter or evidence, which, after the exercise of due diligence, was not within the knowledge of the person seeking the review or could not be produced by him at the time when the order was made, and/or there is error apparent on the face of the record and it may be exercised on any analogous ground also. The same is not maintainable on the ground that the decision was erroneous on merit, which is the province of an appeal. In the present case, respondent No.2 – M.P. State Cooperative Marketing Federation Ltd., Bhopal has already questioned the correctness of the order, sought to be reviewed, in this application, in the special leave petition filed before the Hon'ble Supreme Court in S.L.P.(C.) No.22887/2005, and the same was dismissed.

4. The Hon'ble Supreme Court in **Satyanarayan Laxminarayan Hegde vs. Mallikarjun Bhavanappa Tirumale, AIR 1960 SC 137** has made following observation in respect of error apparent on the face of the record : -

> "An error which has to be established by a long drawn process of reasoning on points where there may conceivably be two opinions can hardly be said to be an error apparent on the face of the record. Where an alleged error is

> far from self-evident and if it can be established, it has to be established, by lengthy and complicated arguments, such an error cannot be cured by a writ of certiorari according to the rule governing the powers of the superior Court to issue such a writ."

This observation of the Hon'ble Supreme Court has been approved subsequently in **Lily Thomas, etc. vs. Union of India and others, reported in AIR 2000 SC 1650, Ajit Kumar Rath vs. State of Orissa and others, reported in AIR 2000 SC 85, Kerala State Electricity Board vs. Hitech Electrothermics & Hydropower Ltd. and others, reported in (2005) 6 SCC 651.**

5. In the instant case, the review petitioner has not pointed out any error apparent on the face of the record or discovery of a new document, which could not be made available after the exercise of due diligence or any analogous ground. The review petitioner is seeking rehearing of the case on merit which is not permissible in review jurisdiction.

6. For the reasons stated above, the review application is dismissed. No order as to costs.

Sd/-
L.C.BHADOO
Judge

Sd/-
Satish K. Agnihotri
Judge

Gopal